

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

0A.1876/87

Date of decision: 11.05.1993

Shri Lekh Raj

Applicant

Versus

Union of India

Respondents

Shri V.P. Sharma

Counsel for the applicant

Shri P.P. Khurana

Counsel for the respondents

CORAM: The Hon. Mr. A.B. GORTHI, Member(A)

The Hon. Mr. C.J. ROY, Member (J)

JUDGEMENT (oral)

(delivered by Hon. Member(A) Shri A.B. Gorathi)

The applicant in this OA, aggrieved by the order dated 11.8.87, by means of which, his services were terminated under Rule 5(1) of the Central Civil Services (Temporary Services) Rules, 1965, has prayed in this application, that the said order of termination be set aside as illegal and punitive in nature and that he be given all the consequential benefits.

2. In response to an advertisement of the respondents in 1985, the applicant applied for the post of Deputy Field Officer (TEL) in the office of Cabinet Secretariat, New Delhi. After due selection, the applicant was found suitable and he was given an offer of appointment vide memo dated 2.6.87. Accepting

the said offer of appointment, the applicant joined the services on 11.6.87 as Deputy Field Officer (TEL) in the scale of pay of Rs.1640-2900. The appointment order, which is at annexure-7 of the paper book, clearly shows that the applicant was appointed in a temporary capacity till further orders. Thereafter, on 11.8.87, suddenly without any notice, the respondents issued the impugned order, terminating the services of the applicant. The applicant immediately contacted the authorities concerned and learnt that his services were terminated for the simple reason that in his attestation form, he has suppressed the fact that he was earlier involved in a criminal case. In his representation to the Joint Secretary (Pers.), the applicant explained the circumstances, as to how, when he was a student, he was misled by some other students, in organising a strike. The criminal case, however, ended in his acquittal. He, therefore, appealed to the Joint Secretary for his reinstatement but his representation was turned down by a cryptic order without assigning any reason thereof. Thereafter, the applicant filed yet another representation to the Secretary, Cabinet Secretariat, New Delhi on 10.9.87, but the said representation was also similarly turned down by an order, which contains no reasons.

3. The respondents in their reply affidavit while admitting the essential averments made in the application, have stated that the appointment of the applicant was purely on temporary basis and was liable

to be terminated without notice under the provisions of Sub-rule(i) of Rule-5 of the CCS(Temporary Services) Rules, 1965. The respondents, further clarified that in the attestation form submitted by the applicant, he suppressed the material fact that he was involved in a criminal case under sections 147, 148, 323 and 327 IPC. As the applicant was involved in a criminal case and as he suppressed the said fact in the attestation form, the respondents considered him as unsuitable for employment in Government service. The respondents, thus contend, that the applicant's services were lawfully terminated.

3. We have heard the learned counsel for the applicant Shri V.P. Sharma. He strenuously contended that the respondents ought to have instituted an enquiry before terminating the applicants services and such termination without even a notice, would not be legally valid. He further contended that the manner, in which, the representations were rejected by the concerned authorities, was not proper and accordingly, the orders rejecting the representations are liable to be set aside.

4. It is now well settled that a temporary servant cannot claim to continue, in service as a matter of right, where the administration, after ascertaining the facts of the case, has the discretion either to proceed against the employee under the relevant disciplinary rules or to terminate his services under the CCS(Temporary Services) Rules 1965,

and if such authority decides to terminate the services of the employee on the ground that he would not be a suitable person to be retained in service, the same cannot be challenged as unlawful.

5. The question of protection under Article 311(2) of the Constitution of India, arises only in case, where disciplinary proceedings are intended to be taken to terminate the service and not in the case, where his services are to be terminated under the CCS(Temporary Services) Rules, 1965. A perusal of the order of termination clearly shows that it has been passed in accordance with the said rules and that the applicant was given a sum equal to one month's pay plus his allowances at the rate on which he was drawing his salary before termination of his services, in lieu of one month's notice or for a period, by which, such notice fell short by a month.

6. In the above circumstances, we do not find any irregularity or illegality in the order passed by the respondents. As regards the next contention by the learned counsel for the applicant, that the representations by the applicant were disposed of without any application of mind and by means of cryptic non-speaking orders, we would have directed the respondents to reconsider the representations and pass speaking order. But, as already stated, the order of the respondents, terminating the services of the applicant is being legally in order, no useful purpose would be served by now directing the

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respondents to pass any speaking orders in the matter. In fact, it is clear from the representations, that the applicant was fully aware as to the circumstances, under which, his services came to be terminated. In view of this, we find, there has been no violation of any principle of natural justice in this case.

7. Under the circumstances, we dismiss the application with no order as to costs.

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(C.J) ROY
MEMBER(J)
11.05.1993

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transcript
(A.B. GORTHI)
MEMBER(A)
11.05.1993